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SUMMARY

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INTRODUCTION

At present, in Romania, as well as in the other European Union member states, corruption is one of the topics of interest, as this phenomenon has become uncontrollable, obviously affecting the good operation between states, as well as their economic and social development.

There are multiple reasons why I chose to analyse this topic in depth. One of the first consists of the desire to document in this area, considering that in our country there is an increasing trend to prosecute corruption offences and to limit the negative effects of this type of offence. Thus, by the efforts of the state institutions and especially by the National Anticorruption Directorate, I consider that the purpose is to limit the effects of this phenomenon, especially because our country undertook a series of duties when joining the European Union and, more so, Romania is bound also to take into consideration the recommendations of the Group of States against Corruption, given the membership to this body ever since its incorporation, in 1999.

I also chose this topic with the desire to bring to the knowledge of the general audience, theoreticians and practitioners of law, which are the current tools of prevention and fighting corruption offences. Only the ones who know the causes which favour the apparition of corruption, its effects and methods of prevention and fight against can participate to a possible action to mitigate the effects of this phenomenon.

The research of the tools of prevention and fight against corruption offences is of a significant importance due to the fact that, at the national level, it is observed the speeding up of the prosecution and punishing of this type of offence. At the level of Romania, one can see that the target is the minimisation of the effects appeared

by committing the corruption deeds, being obvious that lately the authorities with duties of prevention and fight against these offences directed their attention more and more to this phenomenon.

In terms of the importance of the researched topic, we consider that it is mainly determined by the degree of committing the corruption deeds which exists at this moment at the international level and the social danger generated by committing such offences. Not least, the chosen topic has a special importance for the theory but especially for the practice of the Criminal Law and the Criminal Proceedings Law.

As research hypothesis, I started from observing the fact that the corruption phenomenon manifests itself at the national and also international level, with negative effects on the development of the society, which herein imposes the diminishing of this phenomenon, accepting the premises that its total eradication would be rather utopian.

Based on this hypothesis, by using the method of analysing the collected data and information, I established the objectives of the research, and following that, by means of this approach, we will discover the answers to current situations and problems raised by the corruption phenomenon.

Thus, **the general target** of the research in terms of the chosen topic is the knowledge and the analysis of current tools of prevention and fight against corruption offences, at the international and national level, and the identification of new tools able to mitigate this phenomenon which, as time goes by, affects the world states more and more, from the social and also the economic point of view.

In terms of **specific objectives**, my thesis deals with:

- a) Presentation of national institutions with duties in terms of preventing and fighting against corruption offences;
- b) Analysis of the efficiency of activities conducted by the bodies in charge with the purpose of preventing and fighting against corruption;

- c) Presentation and analysis of the national legislative framework in terms of corruption offences;
- d) Presentation of anti-corruption legislative framework in the most important EU member states and making comparisons between these legislative systems;
- e) Presentation of international institutions with duties in the prevention and fighting against corruption offences;
- f) Identification of provisions concerning the prevention and fight against corruption in International Conventions;
- g) Submitting proposals to improve the existing anti-corruption legislative framework, at the national and international level.
- h)

THESIS SUMMARY

Within the first chapter, I chose to present the concept of corruption under multiple aspects: legal, social, political and crime law. Also, this chapter includes a short history of the corruption phenomenon. Moreover, in the first part of the thesis, I chose to describe in extenso the causes which led to the development of the corruption phenomenon and the effects that this scourge produces.

To this end, I indicated the main causes which make the fight against corruption harder, which are: legislative instability, economic status of countries which inevitably mirrors on the living standard of the citizens, wages of public servants which, most of the times, fail to provide a decent living condition for them, bureaucracy, taxes too high, lack of severe sanctions, involvement of political persons in large businesses, immoral behaviour of many citizens, intervention of the political factor in administrative issues, politicizing the management positions in

public administration, lack of financial checks, lack of transparency, social inequality, lack of a thorough education.

In terms of effects generated by corruption, I indicated that most of them are the decrease of citizens' trust in their countries' leaders, the decrease of the citizens' trust in the justice, the impoverishing of the planet's population, the increase of the criminal level, the decrease of the quality of public services, the threat of the countries' national safety, the increase of the underground economy.

Also, in the first chapter, I actually presented the activity of prevention of corruption, which entails the fighting against this negative phenomenon and which are the instruments of prevention and fight against corruption. The research has indicated that the most important tools to prevent and fight against corruption are:

- a) Instruments of preventing the corruption offences: creating some behaviour codes capable of inducing in the public servants the need to adopt a certain behaviour, de-bureaucratisation, increase of wages in public administration, de-politicising the management positions in public institutions, strengthening the independence of magistrates and legislative stability in terms of normative acts of judiciary organisation, imposing some measures of fiscal easing, creating some safe development programs for small and medium-size enterprises, creating some national campaigns to promote the consequences of corruption and informing on the law and the sanctions, informing the citizens regarding the risks that they are exposed to as consequence of conducting some corruption offences, informing the general public on the results obtained as consequence of strengthening the fight against corruption, transparency of funding of political parties, modification of legislative framework regarding public acquisitions, legislative stability in terms of preventing corruption offences.
- b) Instruments of fighting against corruption offences: setting up some Prosecutor's units specialized in investigating these offences, thorough training of judiciary

police officers, adopting an investment plan in terms of techniques used to uncover corruption offences.

Within the second chapter, I have analysed the institutions that conduct activities in the area of prevention and fight against corruption in Romania, the organisation and operation of such institutions, the duties and purpose for which they were set up. To this end, I approached in extenso the legislative provisions which exist at the national level and which regulate the organisation, operation, jurisdiction, duties and purpose for which the following were set up: The National Anti-corruption Directorate, The General Anti-corruption Directorate, The National Office for Prevention and Control of Money Laundering and The Directorate for Prevention and Investigation of Corruption and Fraud within The National Defence Ministry.

The second chapter also includes the legislative framework which exists in Romania and the analysis of corruption offences mentioned in the Criminal Code and also in Law no. 78/2000. Thus, I have analysed the corruption offences (bribe taking, bribe offering, influence peddling and trading in influence), offences assimilated to corruption offences and offences pointed towards the financial interests of the European Union. Also, within the second chapter, I presented and analysed certain relevant solutions within the judiciary practise that exists at this moment in Romania. In addition, within the thesis, I pointed out that the approach of the National Anti-corruption Strategy has also an important position.

The third part of the work is represented by anti-corruption systems which exist in some European Union member states. To this end, I presented and analysed the anti-corruption systems which are in place in Austria, France, Germany, Italy, Spain, Belgium, Luxemburg, The Netherlands, Denmark, Finland, Bulgaria, Greece. More so, within the third chapter, I analysed the existing legislative framework, made up of corruption offences mentioned by the criminal codes of the above-

mentioned countries and the measures taken into consideration in view of mitigating the effects of the corruption.

The fourth chapter presents in detail the bodies and institutions with duties in the area of prevention and fight against international corruption. To this end, I presented within this chapter, the organisation, operation and activity of such institutions: Transparency International, Group of States against Corruption, International Association of Anti-corruption Authorities, European Partners Against Corruption (EPAC), The European contact-point network against corruption (EACN), The International Anti-corruption Academy, The Organization of the Black Sea Economic Cooperation (BSEC) and the Global Anti-Corruption Initiative. Also, the fourth chapter presents the content of the three major adopted conventions, which are linked to the corruption phenomenon (The Criminal Law Convention on Corruption, The Civil Law Convention on Corruption, The United Nations Convention against Corruption).

The end of the thesis is dedicated to the conclusions and *de lege ferenda* proposals, which I consider beneficial for mitigating the corruption phenomenon, as it is obviously a phenomenon which cannot be totally eradicated. To this end, I agree that, once implemented, the following measures shall produce positive effects in the fight against corruption:

- a) The unification of the National Anti-corruption Directorate (NAD) with The Directorate for Investigating Organized Crime and Terrorism (DIOCT);
- b) The organisation of certain conferences and lectures that would approach in detail the negative effects that corruption generates, not only for the persons which hold positions that involve the exercise of the state authority, but also in schools, high schools and universities;

- c) Concluding some collaboration protocols between state institutions which have major access to public funds (ministries, city halls, county councils, agencies) and NAD;
- d) The change of legislation on the mitigating circumstances, so that in case a perpetrator covers the damage caused by committing a corruption offence, the provisions of art. 75 para. (1) letter d)¹ be applicable ;
- e) The de-incrimination of the bribery with the option of accepting the promise;
- f) The tightening of the sentence for omission of notification;
- g) Setting up a specialized department within the NAD for the execution of technical surveillance mandates;
- h) Instituting by the lawmaker of a special procedure to investigate corruption offences resembling to those regulated in the past by law no. 83/1992;
- i) Change of legislation in terms of investigating misbehaviours committed by magistrates (especially prosecutors);
- j) Supplementing the staff scheme at the level of NAD in the sense of hiring some persons specialized in human resources, economic-financial and administrative areas, and the prosecutors who are today conducting the activity in such departments be moved at the criminal investigation services.
- k) Setting in place the obligation of a certain number of years of experience as magistrate before being able to join NAD;
- l) Change of law of judiciary organisation in the sense that the prosecutor who participates at the first trial term be the same until the end of that trial phase;
- m) The start of the activity of European Public Prosecutor's Office.